IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

WP(C).No. 10747 of 2007(R)

PETITIONERS:

1. **KERALA JUDICIAL MINISTERIAL GAZETTED OFFICER'S ASSOCIATION, STATE COMMITTEE, ERNAKULAM, KOCHI-11, REPRESENTED BY ITS PRESIDENT, SRI.V.P.DAS.**
2. **V.P.DAS, SHERISTADAR, MOTOR ACCIDENT CLAIMS TRIBUNAL, ERNAKULAM.**
3. **V.CHANDRAN, SHERISTADAR, DISTRICT COURT, ALAPPUZHA.**
4. **K.V.RUGMANY, SHERISTADAR, SUB COURT, THRISSUR.**
5. **P.A.AMMINI, SHERISTADAR, SPECIAL COURT(CBI-II), ERNAKULAM.**
6. **K.C.RATNAMMA, SENIOR SUPERINTENDENT, DISTRICT COURT, ERNAKULAM.**

BY ADV. SRI.ELVIN PETER P.J.

RESPONDENTS:

1. **THE PRINCIPAL SECRETARY TO GOVERNMENT, HOME DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
2. **THE REGISTRAR GENERAL, HIGH COURT OF KERALA, ERNAKULAM.**

BY ADV. SRI.KRB.KAIMAL (SR.) FOR R2
SRI.B.UNNIKRISHNA KAIMAL
GOVERNMENT PLEADER SRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/05/2007 ALONG WITH WPC NO. 10995/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NOS. 10747 & 10995/2007

JUDGMENT

The 1st petitioner in W.P.(C) 10747/2007 is Kerala Judicial Ministerial Gazetted Officers' Association. Petitioners 3 to 6 and the petitioner in W.P.(C) 10995/2007 were working under the subordinate judiciary in the State. They have retired from service recently. The 2nd petitioner in W.P.(C) 10747/2007 is due to retire from service on 30.11.2007. They have moved the Government by filing representations, praying for a direction to enhance their retirement age to 58. They point out that the Rules applicable to the employees of the Kerala High Court have been recently amended, enhancing the retirement age to 58. They further point out that several public sector undertakings have also raised the retirement age of the employees working under them. Therefore, they pray, the Government may be directed to consider their representations, wherein they seek enhancement of the retirement age.

2. The retirement age of the petitioners is now governed by Rule 60 (a) of Part I of K.S.R. They can continue in service up to the age of 58, if only the Government amend the said Rule. Amending the K.S.R is a

legislative function. This Court cannot issue any writ of mandamus to the rule making authority to amend the Rules. This position is well settled by several decisions of the Apex Court and this Court. The leading decision of the Apex Court in this regard is **Narinder Chand v. U.T. Him.Pra.** (AIR 1971 SC 2399). But, the learned counsel for the petitioners pointed out that the Government may be directed to consider the representations filed by the petitioners, as the grievance raised therein can be redressed by making an amendment to the above said Rule.

3. The Government do not owe any duty to the petitioners to amend the Rule and the petitioners do not have a corresponding legal right. Therefore, this Court is not justified in issuing any writ of mandamus to consider their representations, containing the prayer to amend the Rules. Accordingly, the writ petitions are dismissed. But, this will not stand in the way of the Government considering their representations, if it thinks fit.

23rd May, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/